

STAFF SUMMARY FOR JUNE 14-15, 2023

12. MITIGATING RISKS FOR CERVID IMPORTATION AND MOVEMENT**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend regulations concerning cervid importation and movement to mitigate risks for importing diseases like chronic wasting disease into California.

Summary of Previous/Future Actions

- | | |
|--|--------------------------|
| • Wildlife Resources Committee vetting | September 15, 2022; WRC |
| • Wildlife Resources Committee vetting | January 11-12, 2023; WRC |
| • Today's notice hearing | June 14-15, 2023 |
| • Discussion hearing | August 22-23, 2023 |
| • Adoption hearing | October 11-12, 2023 |

Background

Diseases can have significant long-term effects on native wildlife populations, especially novel diseases. Once a disease becomes established in a wild population, there are often very few management strategies available and successes are limited. Prevention is generally the most effective management practice for diseases affecting wildlife. Chronic wasting disease (CWD) is the most significant disease affecting cervids (deer, elk, moose, caribou) in North America, but it has never been detected in California.

CWD is caused by a misfolded, infectious protein called a prion. The prions are concentrated in the central nervous system of an infected animal, but can be found in most tissues, secretions and excreta, including muscles (meat), blood, glandular fluids, saliva, feces, and urine. The disease is always fatal, there is no vaccine or treatment, and all cervid species native to North America are susceptible. Despite efforts to manage and contain the disease, it has continued to spread due to prion ecology, limited management options, and human movement of infectious animals or materials. Prions are extremely stable in the environment, remain infective for years to decades, and are shed by infected animals long before they show any signs of disease; this can lead to seeding of the environment with infectious prions. CWD in California would result in changes to California's hunting regulations and traditions and would require significant Department resources to manage.

While CWD poses a significant risk to cervids, it is not the only disease of concern associated with the movement of captive cervids. Cervids are susceptible to bovine tuberculosis (bTB) and brucellosis, two important diseases that affect the livestock industry.

To prevent CWD and other diseases from being imported into California, the Department recommends new regulations be adopted to target known risk factors and mitigate the possibility of accidental importation. Additionally, to align with current U.S. Department of Agriculture testing standards, the proposed regulations would update disease testing requirements in addition to introducing CWD-specific regulations.

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Proposed Regulations

The proposed changes include:

- Section 257.5 would add cervid-derived biofluid to the list of substances that can be used to define a “baited area,” and make it unlawful to use any lures or similar materials that contain, or are labeled or advertised to contain, biological fluids from cervids to take game birds or mammals.
- Section 475 would make it unlawful to use lures or similar materials that contain, or are labeled or advertised as containing, any biological fluid derived from a cervid.
- Section 676 would remove the currently incorporated Fallow Deer Farming Importation Application Form and replace it with a new Cervidae Importation Application Form (DFW 1681), define requirements for a health certificate to accompany imported live cervids, and update testing requirements for bTB and brucellosis.
- Section 681 would add a new importation permit for any live cervids and outline the requirements for permit application.
- Section 712 would add a new definition of skull plate to clarify importation requirements.
- Section 714 would make it unlawful to import or possess any material that contains or is labeled or advertised as containing any biological fluid derived from a cervid.

Further details on the proposed changes are available in the initial statement of reasons (ISOR) and proposed regulatory language (exhibits 2 and 3).

Significant Public Comments (N/A)**Recommendation**

Commission staff: Authorize publication of notice of intent to amend sections 257.5, 457, 676 and 712, and add sections 681 and 714, concerning cervid importation and movement to mitigate risks for importing diseases into California, as recommended by the Department and discussed today.

Committee: Consider the proposed regulation changes for sections 257.5, 457, 676 and 712 and the proposed addition of sections 681 and 714.

Department: Authorize publication of a notice of intent to amend sections 257.5, 457, 676 and 712, and add sections 681 and 714.

Exhibits

1. [DFW memo transmitting ISOR, received May 19, 2023](#)
2. [Draft ISOR and informative digest](#)
3. [Proposed regulation text](#)
4. [Proposed form DFW 1681](#)
5. [Draft economic and fiscal impact statement \(Std. 399\) and addendum](#)
6. [DFW presentation](#)

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Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 257.5, et. al., and add sections 681 and 714, as discussed today.

Memorandum

Date: May 19, 2023

To: Melissa Miller-Henson, Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons for the June 14-15, 2023 Fish and Game Commission meeting to Amend Sections 257.5, 475, 676, and 712, and Add Sections 681 and 714, Title 14, California Code of Regulations, Re: Mitigating risks for cervid importation and movement**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend sections 257.5, 475, 676 and 712, and add Sections 681 and 714, of Title 14, California Code of Regulations concerning cervid importation and movement to mitigate risks for importing diseases like chronic wasting disease (CWD) into California. Authorization of the request to publish notice at the June 14-15, 2023 Commission meeting will allow for discussion at its August 22-23, 2023 meeting and possible adoption at its October 11-12, 2023 meeting.

Diseases can have significant long-term effects on native wildlife populations, especially novel diseases. Once a disease becomes established in a wild population there are often very few management strategies available, and successes are limited. Prevention is generally the most effective management practice for diseases affecting wildlife. Chronic wasting disease (CWD) is the most significant disease affecting cervids (deer, elk, moose, caribou) in North America. The disease is caused by misfolded proteins called prions which can be found in most tissues and excretions including meat, glandular secretions, blood, saliva, feces, and urine of infected animals. Once established in an area, eradication of CWD has proven to be infeasible if not impossible. The Department has been testing for CWD since 1999 and, to date, it has never been detected in California's deer and elk herds. Detection of CWD in California's deer or elk would significantly change how the Department manages these species and could affect California's hunting traditions. The most effective management practice for CWD, and other novel wildlife diseases, is prevention.

To prevent the introduction of wildlife diseases such as CWD to California's cervid populations the Department proposes regulations that target the known risk factors for spread of CWD: the movement of live cervids, their parts, and their products. This would include firstly a new permitting process for the importation of live cervids into the state, with disease testing requirements, grounds for permit denial, and prohibition on importation of cervids from states with known CWD. Secondly, we propose a prohibition on the use and possession of cervid-derived biofluids, such as scent lures

Melissa Miller-Henson, Executive Director
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derived from cervid urine or glandular secretions lures. Finally, we propose non-substantive updates to the current importation regulations of hunter-harvested cervids to clarify which animals are considered cervids and better define the term "skull plate", which would help to prevent accidental importation via improperly processed hunter harvested animals.

If you have any questions regarding this item, contact Scott Gardner, Wildlife Branch Chief, at (916) 217-2370.

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State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 257.5, 475, 676 and 712, and Add Sections 681 and 714
Title 14, California Code of Regulations
Re: Mitigating risks for cervid importation and movement

I. Date of Initial Statement of Reasons: April 26, 2023

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: June 14-15, 2023

Location: Sacramento

(b) Discussion Hearing

Date: August 22-23, 2023

Location: Fortuna

(c) Adoption Hearing

Date: October 11-12, 2023

Location: San Jose

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all references in this document are regarding Title 14 of the California Code of Regulations (CCR). The California Department of Fish and Wildlife (Department) is recommending that the California Fish and Game Commission (Commission) amend Sections 257.5, 475, 676, and 712, and add Sections 681 and 714.

Background

Diseases can have significant long-term effects on native wildlife populations, especially novel diseases. Once a disease becomes established in a wild population there are often very few management strategies available, and successes are limited. Prevention is generally the most effective management practice for diseases affecting wildlife. Chronic wasting disease (CWD) is the most significant disease affecting cervids (deer, elk, moose, caribou) in North America, but it has never been detected in California. To prevent CWD and other diseases from being imported into California, the Department recommends that new regulations be adopted which will target known risk factors and mitigate the possibility of accidental importation.

Chronic wasting disease is caused by a misfolded, infectious protein called a prion. These prions are concentrated in the central nervous system of an infected animal, but can be found in most tissues, secretions, and excreta including muscles (meat), blood, glandular fluids, saliva, feces, and urine respectively. The disease is always fatal, there is no vaccine or treatment, and all cervid species native to North America are susceptible. Despite efforts to manage and contain the disease, it has continued to

spread (Figure 1) due to prion ecology, limited management options, and anthropogenic movement of infectious animals or materials. Prions are extremely stable in the environment, remain infective for years to decades, and are shed by infected animals long before they show any signs of disease. This can lead to seeding of the environment with infectious prions, an important factor in the spread and maintenance of CWD, before any diseased animals are seen on the landscape. Once established in an area, eradication of CWD has proven to be infeasible if not impossible. The Department has been testing for CWD since 1999 and, to date, it has never been detected in California's deer and elk herds.

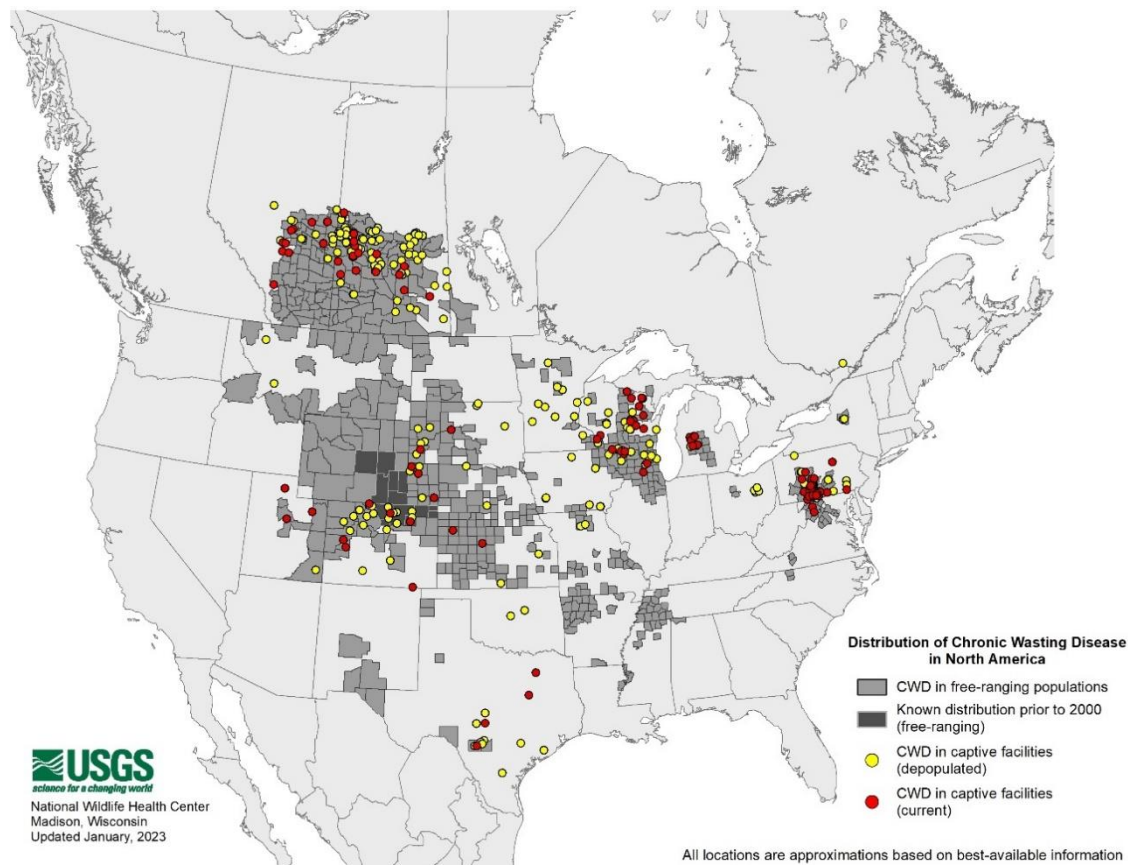


Figure 1: First detected in free-ranging deer and elk in Colorado's front range in the 1980s and considered established in northeastern Colorado and southeastern Wyoming by 2000 (dark gray shaded counties), CWD has since been confirmed in free-ranging (light gray counties) and captive (yellow and red circles) deer and elk from at least 30 states and 4 Canadian provinces.

[Distribution of Chronic Wasting Disease in North America | U.S. Geological Survey \(usgs.gov\)](https://www.usgs.gov/science/distribution-chronic-wasting-disease-north-america)

Detecting CWD in California's deer or elk would require irrevocable changes to how the Department manages these species. As CWD prevalence increases in a population, population growth rates (λ) decrease and once past a certain threshold, populations will decline. CWD in California could result in changes to California's hunting regulations and traditions, and would require significant Department resources to manage. State and federal government agencies have spent hundreds of millions of dollars on CWD-related efforts since 2000. States that have detected CWD on average spend eight times more on CWD management efforts than states that have not detected CWD.

Human dimensions research suggests that hunter participation may decrease in areas where CWD has been detected, particularly as CWD prevalence rates increase. Increasing costs to manage this disease and decreasing hunting license sales could compound and significantly affect the Department's ability to manage CWD, deer, elk, and other species in California.

Some risks associated with CWD are either difficult to quantify or incompletely understood. Infectious prions can bind to or be taken up by plants, which could be a mechanism to spread the disease. Increasingly sophisticated diagnostic and molecular assays have shown that there are multiple strains of CWD and that CWD prions can differentiate when passed through multiple hosts, creating new strains with altered host susceptibilities and disease characteristics. For example, the predominant CWD prion strain in Norway is different than the predominant strain in North America, with different pathologic characteristics. Foremost of these difficult to quantify or incompletely understood risks is the risk CWD may pose to people or livestock. CWD is in the same class of diseases as bovine spongiform encephalopathy (aka BSE or Mad Cow Disease), a prion disease of cows believed to cause variant Creutzfeldt-Jakob disease (vCJD), a neurodegenerative disease in people, through the consumption of BSE-tainted meat. While CWD has never been linked to any human diseases, public health officials remain cautious, recommending individuals and agencies do whatever possible to keep the agents of all known prion diseases from entering the human food chain.

While CWD poses a significant risk to cervids, it is not the only disease of concern associated with the movement of captive cervids. Cervids are susceptible to bovine tuberculosis (bTB) and brucellosis, two important diseases that affect the livestock industry. The USDA has established disease programs to limit or eliminate these diseases from livestock. While the Commission's regulations currently require testing for these diseases, the testing requirements have not been amended for many years. Since the testing requirements were last updated, the scientific understanding of these diseases and disease prevention methods have evolved. To align with current USDA testing standards, the Commission is updating disease testing requirements in addition to introducing CWD-specific regulations.

Existing Authorities

Current statutory authorities focus mostly on regulating the take, possession, or movement of animals and their parts and include:

Fish and Game Code Section 4150 provides that nongame mammals may not be taken or possessed except as provided in the code or in accordance with regulations adopted by the Commission.

Fish and Game Code Section 2118 provides that animals of the order Artiodactyla are considered wild animals. Animals of the family Cervidae are of the order Artiodactyla.

Fish and Game Code sections 2120 and 2122 authorize the Commission, in cooperation with California Department of Food and Agriculture (CDFA), to adopt regulations regarding the entry, importation, possession, transportation, keeping, or

confinement of wild animals that are “not normally domesticated in this state as determined by the Commission.”

Fish and Game Code Section 2118.2 prohibits importation of elk into this state, but this statute does not apply to zoos that are certified by the US Department of Agriculture and does not apply to other cervids.

Fish and Game Code Section 200 provides the Commission with the power to regulate the take or possession of birds, mammals, fish, amphibians, and reptiles.

Current Regulations

Section 257.5 prohibits taking resident game birds and mammals by the aid of bait. The current definition of bait in this section does not extend to biofluid-based lures, which may attract animals through scent or hormonal cues.

Section 475 defines methods of take allowed for nongame birds and nongame mammals. This section similarly prohibits the use of bait, but the definition of bait does not extend to biofluid lures.

Section 671 identifies all cervids as “Detrimental” species requiring special restricted species permits to possess. Subsections outline the requirements to import, transport, and possess restricted species; however, there is no permit specific to importation required for restricted species beyond the permit to possess.

Section 676 outlines requirements for permitting and disease testing for importation of live fallow deer, a cervid. The permit incorporated in this section was last updated in 1997 and covers only the species *Dama dama* (fallow deer). The disease testing requirements for the species are similarly dated.

Section 712 currently prohibits importation and possession of hunter harvested cervid carcasses but does not explicitly define cervid to include all species in the family Cervidae, allowing for interpretation that only deer and elk are included. This section also permits the importation of clean skull plates but does not explicitly define a skull plate.

Proposed Regulatory Changes

This rulemaking will make the following changes:

Section 257.5

Subsection (a): Adds cervid-derived biofluid to the list of substances which can be used to define a “baited area” for purposes of the section. Adding it to the definition of baited area prohibits the take of game birds and mammals in an area where such biofluids are used. This is necessary to prevent the introduction of CWD through the use of cervid-derived biological fluids (biofluids) as lures or attractants. Biofluids, including urine and glandular secretions, can contain CWD-causing prions which could be a source of CWD infection for California’s native deer and elk.

Subsection (b): Adds a new subsection which makes it unlawful to use any lures or similar materials that contain, or are labeled or advertised to contain, biological fluids from cervids to take game birds or mammals. This will prevent the use of cervid-

derived biofluids in any capacity for take. This is necessary to prevent the introduction of biofluids from cervids into California's environment, as they could contain CWD-causing prions.

Subsection (c): Previously subsection (b), renumbered accordingly.

Section 475

Subsection (g): Adds a new subsection making it unlawful to use lures or similar materials that contain, or are labeled or advertised as containing, any biological fluid derived from a cervid. This will prevent use of cervid-derived biofluids to take non-game birds and mammals (whereas Section 257.5 covers game birds and mammals). This is necessary to prevent the introduction of CWD through the use of biofluids as lures or attractants. Biofluids, including urine and glandular secretions, can contain CWD-causing prions which could be a source of CWD infection for California's native deer and elk.

Section 676

Subsection (e)(1): Removes the currently incorporated Fallow Deer Farming Importation Application form and replaces it with a new Cervidae Importation Application form, to be described in Section 681. This is necessary to ensure that there are not multiple forms intended to serve the same purpose (importation of some type of cervid), which could confuse the regulated public. The proposed revisions also update the name of the Department, and provide for an email address contact where to send the completed application. Both are necessary to provide accurate contact information.

Subsection (e)(2): Defines requirements for a health certificate to accompany imported live cervids. This change is to ensure consistency between this section and the proposed new section 681(c)(2)(A).

Subsection (e)(3): Replaces a reference to the prior fallow deer farming importation application form with the new cervidae importation application and updated contact information. This is necessary because the form referenced will no longer be in use.

Subsection (e)(4)(A): Updates defined bovine tuberculosis testing requirements. This is necessary to ensure current, up-to-date testing standards are applied and to ensure consistency between this section and the proposed new section 681(c)(2)(B).

Subsection (e)(4)(B): Updates defined brucellosis testing requirements. This is necessary to ensure current, up-to-date testing standards are applied and to ensure consistency between this section and the proposed new section 681(c)(2)(C).

Section 681

This new subsection will be added to implement the new importation permit for any live cervids. It outlines the requirements for permit application.

Subsection(a): Defines cervid for purposes of this new section. This is necessary to identify the species subject to the requirements laid out in this section.

Subsection (b): Defines prohibitions on importation of live cervids so that the regulated public will be aware of what is prohibited for importation. Prohibitions on importation are necessary because the prohibited species could carry diseases that pose serious risk to California's native cervid species.

Subsection (b)(1): Establishes that it shall be unlawful to import any cervid into California except as authorized and permitted by the Department. This provides law enforcement and prosecutors with authority to enforce the requirements under this section and makes it clear that authorization from the Department is required for the importation of cervids.

Subsection (b)(2): Makes it unlawful to import into California any cervid from a state where CWD has been detected. This is necessary to mitigate the risk of importing CWD into California given that there is currently no reliable test to determine whether a live cervid carries CWD. Without this restriction, the Department is unable to ensure that cervids at the highest risk of being exposed to CWD are kept out of the state. Effective prevention, detection, and management of CWD, and other diseases affecting cervids, requires adaptive management strategies. The statutory definition of "credible science" in the Fish and Game Code is referenced to establish the type of information the Department will consider and acknowledges the need for adaptive management as scientific knowledge and available tools evolve. The Department currently utilizes resources from the U.S. Geological Survey (USGS) and the USDA as credible science for determining CWD detections in states and Canadian provinces.

Subsection (c): Establishes the new cervid import permit application and requirements, with the exception of gametes, which are not subject to the requirements for importation of entire animals for subsections (c)(2) through (c)(5). This is necessary so that the regulated public will be aware of what is required to obtain a permit to legally import a live cervid.

Subsection (c)(1): Establishes the new application to be used for a cervid importation permit and incorporates the application into regulation, and provides guidance on where obtain a copy of the application. This is necessary so that the regulated public will know what application to use when attempting to import a live cervid.

Subsection (c)(2): Establishes application requirements for a permit to import live cervids. This is necessary to inform applicants of the requirements for obtaining authorization from the Department to import cervids. Disease testing requirements (bTB and brucellosis) align with other state and federal interstate movement requirements associated with livestock disease programs. Specific CWD testing requirements are not included in this subsection because there are no live animal testing standards for CWD.

Subsection (c)(2)(A): Establishes requirement of a health certificate, formally known as a Certificate of Veterinary Inspection or CVI, for importation of live cervids. These are regulated by the USDA and require a veterinarian that is licensed in the state where the animals originate and accredited by the USDA to inspect the species

in question for interstate travel. This is necessary to ensure animals are healthy prior to interstate movement of animals and is a requirement for the interstate movement for most animals regulated both federally and by the state.

Subsection (c)(2)(B): Establishes requirement of a negative bovine tuberculosis (bTB) test from the herd of origin for importation of a live cervid. Bovine tuberculosis is a USDA program disease, meaning the USDA has established criteria for bTB certifications for livestock herds and areas. Under this disease program, the USDA has established official testing requirements which include cervids. This section is necessary to align with those disease program requirements to aid in the eradication or control of bTB in the U.S. Given changes in understanding of diseases and their detection since these regulations, it would be inappropriate and potentially detrimental to California's native wildlife or livestock not to bring these disease testing requirements into alignment as part of this regulatory amendment.

Subsection (c)(2)(C): Establishes requirement for brucellosis testing and attestation that the imported cervid is not known to be infected with brucellosis nor has been in contact with any animals of unknown brucellosis status. Similar to bTB, brucellosis is another USDA program disease with similar testing requirements and certification. This section is necessary to align with those disease program requirements to aid in the eradication or control of brucellosis in the U.S.

Subsection (c)(3): Establishes requirements for disease prevention and control concerning importation of live cervids. This is necessary to define the Department's authority to deny imports based on test results and disease status. Authority to deny importation is an important piece of the Department's ability to keep infectious animals out of the state and prevent the spread of CWD.

Subsection (c)(3)(A): Authorizes the Department to deny cervid importation permit application for any cervid that the Department determines may have been exposed to CWD. This is necessary to give the Department authority to restrict the importation of cervids where credible science indicates that the cervid(s) poses a higher risk of carrying CWD, which prevents the potential importation of CWD into the state. No approved live animal tests exist, and the precautionary principle is applied due to the catastrophic consequences if CWD is imported and established.

Subsection (c)(3)(B): Establishes that the Department shall require additional testing as a condition of a cervid importation if a state-licensed and USDA-accredited veterinarian determines that other health risks may be present. This is necessary to identify and mitigate health risks given the dynamic nature of disease conditions. Without this subsection, the Department would be ill-equipped to address disease concerns that may exist in the future or are not yet recognized.

Subsection (c)(4): Establishes that cervid importation permits are valid for 30 days. This aligns with the federally mandated length of time a Certificate of Veterinary Inspection is valid 30 days and ensures that the imported animal's health status is current at the time of importation. If a longer period of time elapsed between the time of disease testing and importation, the likelihood of imported animals carrying diseases that they were not exposed to at the time of testing is increased.

Subsection (c)(5): Defines required identifying markings for cervids imported under a cervid importation permit. This is necessary for the Department to individually identify imported cervids for disease traceability to align with USDA Animal Disease Traceability requirements for cervids. This will assist in contact tracing to identify disease origin or potentially exposed individuals if a CWD-positive individual is identified. The Department reserves some discretion in this subsection to allow for alternative methods of identifying markings to give applicants more flexibility when animal welfare considerations may apply.

Subsection(c)(6): Establishes that the Department may deny a cervid importation permit for failure to comply with Fish and Game Code or regulations. This is necessary to promote compliance with the law and applicable regulations, and make sure that applicants can be trusted to comply with the requirements for cervid importation. Past behavior will be taken into consideration when determining whether an application will be approved. Doing so reduces the risk of cervids being imported unlawfully and posing health risks.

Subsection (c)(7): Establishes that a cervid importation permit issued by the Department may be revoked or suspended by the Department for failure to comply with the terms of that permit. This is necessary to provide the Department with recourse in cases where permittees fail to comply with the law and mitigate the risk of importing a disease.

Subsection (d): Establishes that the Department will not charge permit or application fees in administering and enforcing this section. This provides clarity to the regulated public about requirements for the permit and allows the Department a clear location to amend regulations if fees are required in the future.

Subsection (e): Requires maintenance of all health records of cervids for a minimum of three years. CWD may take months to years to manifest as a clinical disease. This is necessary for disease traceability and herd health assessments to assess potential disease risks.

Subsection (e)(1): Requires that any person holding a cervid importation permit must exhibit records required to be maintained upon the request of any Department employee. This is necessary for the Department to ensure compliance with this section, and to assist with disease traceability and risk mitigation if a suspected disease case is found.

Subsection (e)(2): Establishes that all live cervids imported into California shall be inspected by the Department or its designee, with notice, at the place of entry into the state or at other locations within the state if the Department determines it is needed for disease transmission concerns. This is necessary to provide the Department with the tools to investigate and detect potential disease outbreaks in addition to ensuring compliance with this section.

Subsection (e)(3): Requires that any cervid imported in violation of Section be seized or denied entry by the department. Animals seized by the department may be relocated or seized in place. This is necessary to mitigate the risk of disease or parasites spreading in the state, and to ensure compliance with this section.

Enforcement options would include, but not necessarily be limited to, seizure (in place or otherwise), denied entry, or destruction dependent on the circumstances. Department discretion in the method of removal of an animal is necessary to effectively address disease concerns associated with a wide variety of situations.

Section 712

The proposed revisions explicitly include all members of the family Cervidae and provide a list of examples including deer, elk, moose, caribou, and reindeer. The previous language was unclear and could be interpreted to apply only to deer and elk. These additions are necessary to clarify that this section applies to all members of the family Cervidae and not just deer and elk. This is necessary because hunter-harvested carcasses of any cervid species could contain CWD-causing prions, and the importation of their carcasses could introduce CWD into California.

Subsection (c): Adds a new definition of skull plate. Skull plate was not previously defined and was not interpreted uniformly by hunters, some of whom interpreted this section to include the entire skull. This clarifies the meaning of this regulation and minimizes the chance of accidental importation of brain tissue into California via improperly processed carcasses. This is necessary because brain tissue has a very high concentration of CWD-causing prions, and importation of brain tissue could introduce CWD to California's environment.

Section 714

Adds a new section which makes it unlawful to import or possess any material that contains or is labeled or advertised as containing any biological fluid derived from a cervid. This prevents importation or possession, whereas in sections 257.5 and 475 the CWD-sensitive cervid biofluid prohibition apply to take of game and non-game birds and mammals, respectively. This is necessary to prevent the introduction of cervid biofluids to California's environment either by importation or other possession, as they could contain CWD-causing infectious prions.

Proposed form DFW 1681 – Cervidae Importation Application

Form 1676a, Fallow Deer Farming Importation Application, is currently incorporated by reference in Section 676. The prior version of this form was incorporated by reference in 1997 and the Department does not have an editable version in its records. The old form will be struck out and a completely new form, re-named to DFW 1681, "Cervidae Importation Application," with similar content, is proposed for incorporation into reference into proposed Section 681. However, the new form will apply to importation of all cervids from out of state, not just fallow deer – consistent with animals in Family Cervidae, which is necessary to be able to screen importations of these animals for CWD. The fields in the new form are listed and justified below.

Applicant (Consignee): This begins the section for the cervid import applicant, the consignee, who will be receiving cervids imported from out-of-state and provides details to identify the business, person, location, possession permit, and modes of contact for the applicant.

Business Name and Mailing Address (Consignee): This field is necessary to identify the permittee's organization and mailing address so the Department is aware of who is applying to import cervids.

Corresponding Possession Permit Type: This field is necessary to identify the corresponding permit required to possess a live cervid in the state of California, i.e. whether possession is allowed under a Restricted Species permit (T14, section 671) or Fallow Deer Farming permit (T14, section 676). One of these permits is required before an importation permit can be approved.

Possession Permit Number: This field is necessary for the Department to match the importation permit with the corresponding possession permit identified in the previous field. This makes it possible to look up the permit and verify possession information.

First Name/M.I./Last Name: This field is necessary to identify the permit applicant/holder.

Email Address (Voluntary): This field gives applicants the option to share their email contact information so that the individuals can be contacted by the Department if desired.

Physical Address/City/State/Zip Code (where the animals will be held): This field is necessary to determine the physical location cervids will be imported to within California to enable inspection by the Department, disease risk assessment, and traceback if a disease were to occur.

Fax Number (Voluntary): This field gives applicants an alternative form of communication via facsimile.

Day/Evening Telephone: This field is necessary to allow for communication via telephone during the day or evening, as the Department will primarily communicate with applicants by telephone.

Provide Details of Animals to Be Acquired: This field is necessary to describe and identify the animal covered by the permit to enable proper inspection and traceback.

Current Owner of Herd (Consignor): This begins the section for the current, out-of-state owner or consignor of the cervids to be imported and provides details to identify the business or owner, mailing address, physical location of the animals to be imported, name of the veterinarian issuing the Certificate of Veterinary Inspection, and the veterinarians telephone number.

Business Name and Address: This field is necessary to identify the consignor's organization and mailing address to provide a contact for the owner of the origin herd and an entity to refer to if further investigation is needed to assess an import application.

First Name/M.I./Last Name: This field is necessary to identify the consignor by name and may be an alternative to the Business Name if one or the other is more or less appropriate. Similarly, provides a contact for the origin herd.

Day Telephone: This field is necessary so that the consignor may be contacted by telephone for additional information as needed by the Department to assess and review an importation application.

Physical Address/City/State/Zip Code: This field is necessary to determine the origin of the animals to be imported. This is needed in addition to the business name and address as the two may not be the same. The location of the animals is required to properly review and assess an importation permit.

Name/Day Telephone of Veterinarian Issuing Health Certificate: This field is necessary to identify the certified veterinarian that issued the health certificate and provide a contact number for that veterinarian in case there are any additional health or disease related questions while reviewing an importation application.

Conditions for Importation of Cervids into California: This field is necessary to establish permit conditions aimed at mitigating health risks and ensuring compliance as justified under subsection 681(c), including conditions 1 and 2 for disease testing (bTB and brucellosis pursuant to subsection 681(c)(2)(B) and (c)(2)(C)), condition 3 for Certificate of Veterinary Inspection (pursuant to subsection 681(c)(2)(A)), condition 4 for other disease testing (pursuant to subsection 681(c)(3)(B) and general record retention requirements.

Signature/Date: This field is necessary for the applicant to certify that all of the information provided is true and correct, and that they will abide by the conditions set forth on the application.

Status of Application: This field is necessary to establish whether the application has been approved, denied, or put on hold.

Reason*: This field is necessary for the Department to provide applicants with justification when an application is denied or put on hold. If the application is approved, this field is left blank.

Reviewed By: This field is necessary so the Department's Wildlife Health Lab can confirm that an application was reviewed and to indicate when a final determination was made.

Instructions for Completing the Cervidae Importation Application: This section is necessary to give applicants the information they need to complete the application. The information provided includes contact information, additional permits that may be required, signature requirements, and submission of test results.

(b) Goals and Benefits of the Regulation

The goal of these regulations is to prevent the importation of CWD, and other diseases affecting cervids, into California by enhancing the Department's ability to regulate

known risk factors for the movement, transmission, and spread of CWD and other diseases: movement of live cervids, their parts, and their products. The proposed regulations provide the Department with greater control over the importation of live animals which may carry the disease. Prohibition on the possession and use of cervid-derived biofluids, such as urine-based lures, mitigates the risk of importing infectious prions through such products. Additional specificity in hunter importation regulations will make it clear to the regulated public which animals are included in the cervid group and therefore require precautions to be imported after harvest and assist them in processing their harvested animals to avoid potentially importing parts of animals which may carry infectious prions. The benefit of these proposed regulations is to provide tools to further prevent to importation of diseases like CWD.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

- Section 257.5
Authority: Sections 200, 203 and 265, Fish and Game Code.
Reference: Sections 110, 200, 201, 203, 203.1, 260, 265, 270, 275, 3800 and 3950, Fish and Game Code.
- Section 475
Authority: Sections 200, 203, 265, 355, 3003.1, 3800 and 4150, Fish and Game Code.
Reference: Sections 110, 202, 203, 203.1, 265, 355, 356, 2055, 3003.1, 3004.5, 3800 and 4150, Fish and Game Code.
- Section 676
Authority: Sections 1002, 2120, 2150 and 2150.2, Fish and Game Code.
Reference: Sections 2116.5, 2120, 2124, 2150, 2150.2, 2150.4, 2150.5, 2151, 2185, 2186, 2187, 2189, 2190, 2350 and 2355, Fish and Game Code.
- Section 681
Authority: Sections 1002, 1050, 2120, 2122, 2150, 2150.2, and 3005.5, Fish and Game Code.
Reference: Sections 13.5, 33, 80, 200, 240, 1001, 1008, 2118, 2118.2, 2118.4, 2120, 2121, 2122, 2193, 2350, 2353, 2355, 3219, 4011 and 4150, Fish and Game Code.
- Section 712
Authority: Sections 200, 203, 240 and 2355, Fish and Game Code.
Reference: Sections 200, 203 and 2355, Fish and Game Code.
- Section 714
Authority: Sections 200 and 203, Fish and Game Code.
Reference: Sections 80, 200, 203 and 240, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change

No specific technology or equipment will be required by the regulatory change.

(e) Identification of Reports or Documents Supporting Regulation Change

- Association of Fish and Wildlife Agency (AFWA) Best Management Practices for Prevention, Surveillance, and Management of Chronic Wasting Disease Summary - [AFWA_CWD_BMPS_12_September_2018_FINAL.pdf \(fishwildlife.org\)](#)
- AFWA Technical Report on Best Management Practices for Prevention, Surveillance, and Management of Chronic Wasting Disease - [AFWA Technical Report on CWD BMPs FINAL.pdf \(fishwildlife.org\)](#)
- New York State Dept. of Environmental Conservation, Management Plan for White-Tailed Deer in New York State, 2021-2030, Appendix 3: Recommendation to Prohibit Cervid Biofluids in New York. - [Management Plan for White-tailed Deer in New York State 2021-2030 \(ny.gov\)](#)
- Escobar, L. E., S. Pritzkow, S. N. Winter, D. A. Grear, M. S. Kirchgessner, E. Domingues-Villegas, G. Machado, A. Townsend Peterson, C. Soto. 2019. The ecology of chronic wasting disease in wildlife. *Biological Reviews* 95(2):393-408. <https://doi.org/10.1111/brev.12568>
- Zabel, M. and A. Ortega. 2017. The ecology of prions. *Microbiology and Molecular Biology Reviews* 81:e00001-17. <https://doi.org/10.1128/MMBR.00001-17>
- Chiavacci, S. 2022. The economic costs of chronic wasting disease in the United States. *PloS ONE* 17(12):e0278366. <https://doi.org/10.1371/journal.pone.0278366>
- Chronic Wasting Disease (CWD) | Prion Diseases | CDC. <https://www.cdc.gov/prions/cwd/index.html>

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

The Department met with hunting conservation groups on September 12, 2022 to inform them of the proposed regulatory changes and subsequently presented these proposed regulatory changes at the September 15, 2022 WRC meeting of the FGC.

Hunting conservation organizations responded with some questions, concerns, and comments including a letter from The California Bowmen Hunters Association/State Archery Association. Responses supported clarifying hunter import regulations and further regulating live cervid importations but requested greater research into scent lures and how proposed regulations may affect California hunters. The Department completed additional research into biofluids and the scent lure industry which informed a second presentation at the January 11, 2023 WRC meeting of the FGC. This second presentation to the WRC focused largely on addressing specific questions, concerns, and comments offered by hunting conservation organizations about scent lures (commercially available, biofluid-based products that would be affected by these recommendations), providing additional justification for this proposed regulation.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

The following alternatives were considered, but not pursued:

- Live cervid import permit – outright ban on the importation of any cervid.
- Cervid-derived biofluids – allow for the use and possession of products certified through Responsible Hunting Scent Association (RHSA). While this may decrease the risk, it would not eliminate the risk of using cervid-derived biofluid-based lures or products and the consequences of CWD in California are immense. Hunting conservation organizations posed additional questions about the proposed prohibitions to cervid-derived biofluids. These excellent questions led to additional research into cervid-derived biofluids, the hunting scent lure industry, and current CWD certification programs, yielding additional justification for the proposed prohibitions:
 - Commercially available biofluid-based scent lures were developed and marketed for white-tailed deer hunting and are almost exclusively derived from captive white-tailed deer. There are no white-tailed deer hunting opportunities in California.
 - While the commercial scent lure industry has developed a program to certify urine-based lures as “CWD free,” there is no agency oversight, the test used for these certifications is not United States Department of Agriculture (USDA) approved for the detection of CWD, and the test and testing process, as a whole, lacks the sensitivity and specificity analyses to fully evaluate the effectiveness of such a program.
 - USDA’s Herd Certification Program for CWD has multiple certified “CWD-free” herds turn up CWD-positive every year, highlighting the difficulties of testing, preventing, and managing CWD due to the ecology and pathophysiology of the disease.
 - Informal surveys and market research confirmed that scent lures are not widely used in California. One reason for this may be that mule deer behavior is different from white-tailed deer behavior and scent lures may not be particularly effective.
 - Synthetic alternatives are available and would remain an option for use in California.
 - While the risk associated with a single biofluid-derived product is likely small, that risk compounds with repeated use over time as prions remain infectious in the environment for years to decades and the infectious dose for CWD is exceedingly small.
- Clarifying hunter import regulations – none.

(b) No Change Alternative

- Live cervid import permit – there would be little to no regulatory authority to deny the import of CWD-susceptible, at risk, and potentially infectious lives cervids.
- Cervid-derived biofluids – would continue to be used and possessed increasing the risk of infectious prions being brought into California and placed on the landscape increasing the risk of contaminating California’s deer and elk habitat with infectious prions allowing susceptible deer or elk to be exposed and infected by CWD.

- Clarifying hunter import regulations – would remain vague as to which species the regulation applies to and what parts can be imported.

V. Mitigation Measures Required by Regulatory Action

The proposed regulation would have no impact on the environment. No mitigation measures are necessary.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The Commission does not anticipate significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The businesses affected by cervid importation permit requirements would largely be 1) restricted species (Title 14, section 671) permit holders that have cervids (e.g. zoos, sanctuaries, and other exhibitors) and permitted fallow deer farms (Title 14, Section 676); people looking to start one of these businesses; similar businesses looking to travel through CA, (i.e. import permits would still be required even if just traveling through CA); 2) businesses affected by a cervid-derived biofluid ban, including retailers that sell cervid-derived biofluid-based lures which are not widely sold or used in the state, but artificial scent lures would not be affected by these regulations and would remain available; and 3) restricted species breeder permit holders looking to import semen for artificial insemination. Clarifications of the regulations regarding the importation of cervid body parts into the state will not introduce any new costs or demand for goods and services.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

The Commission anticipates that the proposed regulations will not impact the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California because these proposed regulatory changes to mitigate CWD and other diseases will impose discretionary non-monetary costs on a small sector of the state with little to no stimulus to the demand for goods or services within the state economy. The proposed prevention measures will benefit fallow deer farming and outdoor recreation businesses by helping to ensure healthy cervid populations.

Direct benefits are anticipated to the state's environment, specifically the native deer and elk populations while indirect benefits are anticipated to be the health and welfare of California residents by preserving hunting traditions and wildlife viewing opportunities.

Additionally, the proposed disease prevention measures would deter substantially increased Department management costs in the long-run by preventing the importation of CWD. This will allow current budgets to continue to further conservation programs to preserve deer, elk, and other California native species for their ecosystem values and as a resource for consumption and enjoyment by state and non-state residents.

(c) Cost Impacts on a Representative Private Person or Business

The Commission estimates no cost impacts on representative businesses for importing live cervids for restricted species or fallow deer farming permit holders. The import application and permit approval would have no associated fee. Costs for disease testing and Certificate of Veterinary Inspection are already incurred for most cervid imports into California because of federal interstate movement regulations and best practices. These proposed requirements would not increase that cost. Records retention requirements may involve additional time that live deer farming businesses and zoos will incur should they continue to choose to import live deer. Importing deer is not strictly necessary for fallow deer farms and is discretionary. Time spent on permit applications and records retention requirements will remain a small fraction of the total cost of importation of live cervids. No cost impacts to representative private persons are anticipated.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Commission anticipates no new costs or savings to state agencies or to federal funding to the State. The proposed regulatory measures to mitigate the risk of disease importation into the state are projected to save the Department costs in the long-run. Other states' experiences show that state wildlife agencies spend eight-fold more managing CWD once the disease is detected within the state. The Department Wildlife Health Laboratory (WHL) effort to review and approve cervid importation permits is expected to be unchanged. Department law enforcement costs are expected to be unchanged, as the routine level of field enforcement is expected to be sufficient. There may be a decrease in the number of citations for improper importation of parts from hunter harvested animals as the regulation change will clarify what can and cannot be imported from cervids harvested out-of-state.

(e) Nondiscretionary Costs/Savings to Local Agencies

None.

(f) Programs Mandated on Local Agencies or School Districts

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

(h) Effect on Housing Costs

None.

VII. Economic Impact Assessment

(g) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate that the proposed regulation would induce any impact on the creation or elimination of jobs because the proposed regulatory action is not anticipated to stimulate or diminish demand for services related to chronic wasting disease mitigation measures.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate that the proposed regulation would induce any impact on the creation of new businesses or elimination of existing businesses within the state because the proposed regulatory action is not anticipated to stimulate or diminish demand for goods or services resulting from the clarification of chronic wasting disease mitigation measures.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate that the proposed regulation would induce any impacts on the expansion of businesses currently doing business within the state because importing deer is not strictly necessary for deer breeding farms, it is discretionary, and there remains options for importing deer through the Cervidae Importation Application (Section 681). Reporting time costs will remain a small fraction of the total cost of importing new breeding stock.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate that the proposed regulation would directly benefit the health and welfare of California residents. However, the proposed regulations are to help prevent and mitigate the risk of importing CWD and infecting California's cervid populations. While CWD has never been shown to affect people, the recommendations of the U.S. Centers for Disease Control and Prevention (CDC) and the World Health Organization (WHO) is to not consume meat from CWD-positive deer or elk. The proposed regulations will lessen the likelihood of such contact.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate that the proposed regulation would directly benefit or decrease worker safety. The enhanced requirement to vet additional cervid species types will not significantly impact the amount of prions law enforcement are exposed to when checking deer for import, nor will the ban of scent lures require any prion contact.

(f) Benefits of the Regulation to the State's Environment

Direct benefits are anticipated to the state's environment, specifically the native deer and elk populations. Additionally, the proposed CWD prevention measures should benefit the environment by avoiding potential increases in Department management costs in the long-run (if CWD was to enter the state) and allow current budgets to

continue to further conservation programs to preserve deer, elk, and other California native species.

(g) Other Benefits of the Regulation

The proposed amendments to section 712 will clarify what parts from hunter-harvested cervids are and are not allowed to be imported, a clarification that hunters and law enforcement have fully supported during outreach.

Informative Digest/Policy Statement Overview

Diseases can have significant long-term effects on native wildlife populations, especially novel diseases. Once a disease becomes established in a wild population, there are often few effective management strategies, and successes are limited. Prevention is generally the most effective management practice for diseases affecting wildlife. Chronic wasting disease (CWD) is the most significant disease affecting cervids (deer, elk, moose, caribou) in North America, and as of yet, has not been detected in California. The disease is caused by mis-folded proteins called prions which can be found in just about every tissue as well as glandular secretions, blood, feces, and urine of an infected animal. Once established in an area, eradication is infeasible if not impossible. The California Department of Fish and Wildlife (Department) has been testing for CWD since 1999 and, to date, it has never been detected in California's deer or elk herds. Detection of CWD in California's deer or elk would require irrevocable changes to how the Department manages these species. The most effective management practice for CWD and other diseases that affect wildlife is prevention. To prevent CWD and other diseases from being imported into California, the Department recommends that new regulations be adopted which will target known risk factors and mitigate the possibility of accidental importation.

Current Regulations

Section 257.5 prohibits taking resident game birds and mammals by the aid of bait. The current definition of bait in this section does not include cervid-derived biofluid-based lures which may attract animals through scent or hormonal cues.

Section 475 defines methods of take that are allowed for nongame birds and nongame mammals; this section also prohibits use of bait but, as in 257.5, but does not include cervid-derived biofluid-based lures.

Section 712 regulates what parts of hunter harvested cervid carcasses may be imported and possessed but the language used seems to define cervid as deer and elk only. This section also permits the importation of clean skull plates but does not define skull plate.

Section 671 establishes a list of restricted species, which may not be imported into California without a permit issued by the Department. It further outlines requirements for possession, importation, and movement of restricted species including disease testing requirements. All Cervidae are considered "detrimental animals" under section 671, and therefore may only be possessed under permit by the Department. There is currently no regulatorily established permitting process specifically for the importation of species listed as restricted species, including the broader group Cervidae.

Section 676 outlines requirements for possession, use, movement, and importation of live fallow deer, a cervid, including permitting and disease testing requirements for fallow deer farming. The importation permit incorporated in this section was last updated in 1997 and covers only the species *Dama dama* (fallow deer).

Proposed Changes

- Section 257.5 – Add cervid-derived biofluid-based lures to the list of prohibited baits for the take of game birds and mammals.
- Section 475 – Add cervid-derived biofluid-based lures to the list of prohibited baits for the take of nongame birds and nongame mammals.
- Section 676 – Remove the current Fallow Deer Farming Importation Application, LRB 1676A (3/97) from regulation, it will be superseded by a new importation permit for all members of the family Cervidae including fallow deer.
- Section 712 – Clearly state that the regulation applies to all species in the family Cervidae, not just deer and elk. Define what a skull plate is to clarify what parts may be imported.
- Add a new section (Section 681) requiring a Cervidae Importation Permit to import live animals in the family Cervidae. This section will provide details on requirements for permit application, disease testing, and identifying markers for imported cervids as well as clear denial authority based on disease risk.
- Add a new section (Section 714) that defines cervid-derived biofluids and prohibits the possession of cervid-derived biofluids, or products containing cervid-derived biofluids.

Benefit of the Regulations

These regulations will benefit California's environment by helping to prevent the importation of CWD protecting California's native deer and elk populations from this disease. This will provide further benefits to California's hunting community, fallow deer farming community, and outdoor recreation communities by maintaining healthy cervid populations as a resource for consumption and enjoyment. Keeping California's deer and elk populations free of chronic wasting disease will save the Department and stakeholders money and resources allowing for more conservation programs protecting deer, elk, and other California native species.

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Section 2118 of the Fish and Game Code classifies cervids as wild animals. Pursuant to Fish and Game Code section 2120, the Commission has the authority to regulate the entry, importation, possession, transportation, keeping, confinement, and release of all wild animals that will be or have been imported into California. Pursuant to Section 200 of the Fish and Game Code, the Commission has the authority to regulate the taking and possession of mammals. Section 80 of the Fish and Game Code provides that a provision of the Fish and Game Code that applies to a whole animal is presumed to also apply to a part of the animal. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to

the importation of live cervids, importation of hunter harvested cervid parts, or use and possession of lures.

Proposed Regulatory Language

Section 257.5, Title 14, CCR, is amended to read:

§ 257.5. Prohibition Against Taking Resident Game Birds and Mammals by the Aid of Bait.

Except as otherwise provided in these regulations or in the Fish and Game Code, resident game birds and mammals may not be taken within 400 yards of any baited area.

(a) Definition of Baited Area. As used in this regulation, "baited area" shall mean any area where shelled, shucked or unshucked corn, wheat or other grains, salt, ~~or~~ other feed whatsoever, or cervid-derived biofluid capable of luring, attracting, or enticing such birds or mammals is directly or indirectly placed, exposed, deposited, distributed, or scattered, and such area shall remain a baited area for ten days following complete removal.

(b) It shall be unlawful to use lures or similar materials that contain or are labeled or advertised as containing any chronic wasting disease (CWD)-sensitive cervid biofluid as defined in Section 714(a) of these regulations, including but not limited to urine, feces, saliva, and scent gland secretions, to take any game bird or game mammal.

~~(b)~~ (c) Exceptions:

(1) The taking of domestically reared and released game birds on licensed pheasant clubs and other licensed game bird clubs;

(2) The taking of resident game birds and mammals on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;

(3) The taking of resident game birds and mammals on or over any lands where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed have been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

NOTE: Authority cited: Sections 200, 203 and 265, Fish and Game Code.

Reference: Sections 110, 200, 201, 203, 203.1, 260, 265, 270, 275, 3800 and 3950, Fish and Game Code.

Section 475, Title 14, CCR, is amended to read:

§ 475. Methods of Take for Nongame Birds and Nongame Mammals.

Nongame birds and nongame mammals may be taken in any manner except as follows:

- (a) Poison may not be used.
- (b) Recorded or electrically amplified bird or mammal calls or sounds or recorded or electrically amplified imitations of bird or mammal calls or sounds may not be used to take any nongame bird or nongame mammal except coyotes, bobcats, American crows and starlings.
- (c) Fallow deer, sambar deer, axis deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only with the equipment and ammunition specified in Section 353 of these regulations.
- (d) Traps may be used to take nongame birds and nongame mammal only in accordance with the provisions of Section 465.5 of these regulations and sections 3003.1 and 4004 of the Fish and Game Code.
- (e) No feed, bait or other material capable of attracting a nongame mammal may be placed or used in conjunction with dogs for the purpose of taking any nongame mammals. Nothing in this section shall prohibit an individual operating in accordance with the provisions of Section 465.5 from using a dog to follow a trap drag and taking the nongame mammal caught in that trap.
- (f) The take or attempted take of any nongame bird or nongame mammal with a firearm shall be in accordance with the use of nonlead projectiles and ammunition pursuant to Section 250.1 of these regulations.
- (g) It shall be unlawful to use lures or similar materials that contain or are labeled or advertised as containing any chronic wasting disease (CWD)-sensitive cervid biofluid as defined in Section 714(a) of these regulations, including but not limited to urine, feces, saliva, and scent gland secretions, to take any nongame bird or nongame mammal.

NOTE: Authority cited: Sections 200, 203, 265, 355, 3003.1, 3800 and 4150, Fish and Game Code.

Reference: Sections 110, 202, 203, 203.1, 265, 355, 356, 2055, 3003.1, 3004.5, 3800 and 4150, Fish and Game Code.

Section 676, Title 14, CCR, is amended to read:

§ 676. Fallow Deer Farming.

[No changes proposed to subsections 676(a) through (d)]

(e) Importation of Fallow Deer for Farming. Fallow deer shall not be imported into California for the purposes of farming, except as provided by these regulations.

(1) Importation Application Requirement. ~~A Fallow Deer Farming Importation Application, LRB 1676A (3/97), which is incorporated by reference herein, A Cervidae Importation Application as described in Section 681 of these regulations~~ shall be completed in its entirety by permittees wishing to import fallow deer stock from outside California. This application and documentation identified below shall be submitted to the Department of Fish and ~~Game~~Wildlife, Wildlife ~~Investigations~~Health Laboratory, 1701 Nimbus Road, Suite D, Rancho Cordova, California 95670, or emailed to WHLab@wildlife.ca.gov. Application forms are available upon request at this email address. The approved ~~Fallow Deer Farming Cervidae~~ Importation Application form must accompany the imported fallow deer stock.

(2) ~~Health Certificate Requirement. A health certificate issued by a U.S. Department of Agriculture accredited veterinarian or other person who has obtained a degree in veterinary medicine from a college or university accredited by the American Veterinary Medical Association in the state from which the fallow deer stock is being shipped shall accompany the imported fallow deer stock. This health certificate shall contain the methods used for testing, the results of the testing and be correlated to identifying markings on fallow deer tested.~~ Health Certificate/Certificate of Veterinary Inspection. Pursuant to Section 681 of these regulations, Cervidae Importation Applications shall be submitted with a Certificate of Veterinary Inspection issued by a United States Department of Agriculture (USDA) accredited category II veterinarian licensed in the state the fallow deer is to be imported from. The Certificate of Veterinary Inspection shall accompany the imported fallow deer and shall include any disease test(s), the results of that testing, and individually identifying tags or markings on the tested fallow deer.

(3) Copy of Official Test Results Required. A copy of the official results from tests conducted in the state of origin shall be submitted with the ~~Fallow Deer Farming Importation Application form~~Cervidae Importation Application as defined in subsection 681(c)(1) of these regulations, obtainable by contacting the department's Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Information on the test tests methods used and the results for each fallow deer tested shall be included.

(4) Disease Tests Required.

(A) ~~Bovine Tuberculosis Testing. The herd of origin shall have undergone official testing for bovine tuberculosis within 24 months of importation of fallow deer, using a Single Cervical Tuberculin (SCT) Test or a Blood Tuberculosis (BTB) Test. All fallow deer six months of age or older shall be tested for tuberculosis within 120 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test.~~ Bovine tuberculosis (bTB) testing. The herd of origin must have undergone official

testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. However, cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation.).

~~(B) Brucellosis. The veterinarian issuing the health certificate shall attest that the fallow deer to be imported into California are not known to be infected with brucellosis and that the animals have not been in contact with animals of unknown brucellosis status. Fallow deer six months of age or older shall be tested for brucellosis within 30 days of entry into California.~~ Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are not known to be infected with brucellosis and have not been in contact with animals of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.

(C) Other Disease Testing. The department shall reserve the right to require additional testing prior to importation when there is reason to believe other diseases, parasites or other health risks are present. The department shall provide written notification if such testing is required.

[No changes proposed to subsections 676(f) through (h)]

NOTE: Authority cited: Sections 1002, 2120, 2150 and 2150.2, Fish and Game Code.
Reference: Sections 2116.5, 2120, 2124, 2150, 2150.2, 2150.4, 2150.5, 2151, 2185, 2186, 2187, 2189, 2190, 2350 and 2355, Fish and Game Code.

Section 681, Title 14, CCR, is added to read:

§ 681. Importation of Live Cervids.

(a) Definitions. For purposes of this section, cervid is defined as any live mammal, embryo, or gamete in the taxonomic family Cervidae. Cervids include but are not limited to sika deer, fallow deer, axis deer, white-tailed deer, mule deer, moose, caribou, reindeer, and elk.

(b) Prohibitions.

(1) It shall be unlawful to import into this state any species of cervid except as authorized and permitted by the department pursuant to this section.

(2) It shall be unlawful to import into this state any live species of cervid from any state where chronic wasting disease (CWD) has been detected, according to credible science as defined in Fish and Game Code Section 33, unless otherwise authorized by the department under this section.

(c) Permit Applications and Requirements.

(1) Permit Application. Application for a cervid importation permit shall be made pursuant to the Cervidae Importation Application, DFW 1681 (NEW 04/23), which is incorporated by reference herein. Applications can be obtained by contacting the department's Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Issuance of a permit pursuant to this section does not obviate the need to obtain other applicable permits and approvals, including but not limited to restricted species permit(s) and/or a fallow deer farming permit.

(2) Requirements. Cervidae importation permit applicants shall comply with the following when submitting a cervid importation permit. Cervid gametes from a United States Department of Agriculture (USDA) bTB and Brucellosis-Free herd are not subject to the subsequent requirements in subsection (c)(2) and (c)(5).

(A) Health Certificate/Certificate of Veterinary Inspection. Cervidae Importation Applications shall be submitted with a Certificate of Veterinary Inspection issued by a USDA-accredited category II veterinarian licensed in the state the cervid is to be imported from. The Certificate of Veterinary Inspection shall accompany the imported cervid and shall include the disease test(s), the result(s) of that testing, and individually identifying tags or markings on the tested cervid.

(B) Bovine tuberculosis (bTB) testing. The herd of origin must have undergone official testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. However, cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation).

(C) Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are not known to be infected with brucellosis and have not been in contact with animals of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.

(3) Disease Prevention and Control.

(A) Exposure to CWD. The department is authorized to deny a cervid importation permit application for any cervid that the department determines, based on the most recent disease reports and credible science as defined in Fish and Game Code Section 33, may have been exposed to CWD. The department shall notify the permittee in writing of such a determination, which shall include the rationale for its determination.

(B) Other Disease Testing. The department shall require as a condition on any cervid importation permit that additional testing be conducted if a state-licensed and USDA-accredited veterinarian determines that other diseases, parasites, or other health risks are present based on emerging disease threats. Disease testing requirements may be adjusted on a case-by-case basis based on animal welfare considerations and relative risk as established by credible science as defined in Fish and Game Code Section 33. The department shall notify the permittee in writing if such testing is required.

(4) Permit Term. Cervid importation permits issued under the provisions of this section shall be valid for a term of 30 days.

(5) Identifying Markings. Every cervid that is imported under a cervid importation permit shall be marked, so as to be individually identifiable, by an approved unique identifying method and reported to the department. Approved methods include electronic implants, tattoos, tamper resistant ear tags or a USDA-approved device that adheres to official identification numbering. The department may approve an alternative method if the permittee provides written justification from a state-licensed and USDA-accredited category II veterinarian, explaining the alternative method of unique identification and why other methods would be detrimental to the health or welfare of the animal(s).

(6) Denial of Application. The department may deny a cervid importation permit for failure to comply with the Fish and Game Code or any regulations adopted pursuant thereto to promote compliance with the law and applicable regulations and ensure that applicants can be trusted to comply with the requirements for cervid importation. Past behavior will be taken into consideration when determining whether an application will be approved.

(7) Revocation. The department is authorized to revoke a cervid importation permit issued pursuant to this section at any time for failure to comply with the terms and conditions of a cervid importation permit, the Fish and Game Code, or this section.

(d) Fees. There is no Cervidae Importation Application fee or importation permit fee associated with cervid importation under this section.

(e) Inspections and Retention of Health Records. The permittee shall maintain all health records of individual cervids for a minimum of three years.

(1) Availability of Records and Inspection by Department. Any person holding a cervid importation permit issued pursuant to this section shall exhibit any records required to be maintained by these regulations upon the request of any department employee.

(2) Live cervids imported into California shall be inspected by the department or its designee after notice is provided, either at the place of entry into the state or at other locations within the state, if the department determines that inspection is necessary to ensure compliance or mitigate disease risk.

(3) Any live cervid imported in violation of this section shall be seized or denied entry into this state by the department. An animal that is seized may be taken to another location by the department or seized in place.

NOTE: Authority cited: Sections 1002, 1050, 2120, 2122, 2150, 2150.2, and 3005.5, Fish and Game Code.

Reference: Sections 13.5, 33, 80, 200, 240, 1001, 1008, 2118, 2118.2, 2118.4, 2120, 2121, 2122, 2193, 2350, 2353, 2355, 3219, 4011 and 4150, Fish and Game Code.

Section 712, Title 14, CCR, is amended to read:

§ 712. Restriction of Importation of Hunter-Harvested Deer and Elk Carcasses.

It is unlawful to import, or possess any hunter harvested ~~deer or elk (cervid)~~ cervid carcass or parts of any cervid carcass imported into the State, such as deer, elk, moose, caribou, reindeer, and other species of the Family Cervidae, except for the following ~~body parts~~:

- (a) portions of meat with no part of the spinal column, brain or head attached (other bones, such as legs and shoulders, may be attached).
- (b) hides and capes (no spinal column, brain tissue or head may be attached).
- (c) clean skull plates (no brain tissue may be present, pursuant to Section 714 of these regulations) with antlers attached, if present. For the purpose of this section, the skull plate is defined as the paired bones (frontal, parietal, and temporal bones) that make up the top portion of the skull surrounding the brain and, in antlered animals, from which the paired antlers extend.
- (d) antlers with no meat or tissue attached, except legally harvested and possessed antlers in the velvet stage are allowed, if no meat, brain or other tissue is attached.
- (e) finished taxidermy mounts with no meat or tissue attached (antlers in the velvet stage are allowed if no meat, brain or other tissue is attached).
- (f) upper canine teeth (buglers, whistlers, ivories).

NOTE: Authority cited: Sections 200, 203, 240 and 2355, Fish and Game Code.

Reference: Sections 200, 203 and 2355, Fish and Game Code.

Section 714, Title 14, CCR, is added to read:

§ 714. Prohibition Against Possession of Cervid Biofluid.

- (a) For the purposes of this section, chronic wasting disease (CWD)-sensitive cervid biofluid refers to urine, feces, saliva, and scent gland secretions derived from a cervid.
- (b) It is unlawful to import, use, or possess any product that is derived from, contains, or is labeled or advertised as containing any CWD-sensitive cervid biofluid.
- (c) The prohibitions set forth in subdivision (b) do not apply to parts retained on a field-dressed cervid legally harvested in California.

NOTE: Authority cited: Sections 200 and 203, Fish and Game Code.

Reference: Sections 80, 200, 203 and 240, Fish and Game Code.



SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

APPLICANT (Consignee)

BUSINESS NAME and MAILING ADDRESS			CORRESPONDING POSSESSION PERMIT TYPE <input type="checkbox"/> RESTRICTED SPECIES <input type="checkbox"/> FALLOW DEER FARMING	POSSESSION PERMIT NUMBER (Restricted Species and/or Fallow Deer Farming Permit)
FIRST NAME	M.I.	LAST NAME	E-MAIL ADDRESS (Voluntary)	
PHYSICAL ADDRESS (where the animal(s) will be held)			FAX NUMBER (Voluntary)	DAY TELEPHONE
PROVIDE DETAILS OF ANIMAL(S) TO BE ACQUIRED (Species, age, sex, number):				

CURRENT OWNER OF HERD (Consignor)

BUSINESS NAME and ADDRESS			
FIRST NAME	M.I.	LAST NAME	DAY TELEPHONE
PHYSICAL ADDRESS (where the animal(s) is coming from)			
CITY			STATE ZIP CODE
NAME OF VETERINARIAN ISSUING HEALTH CERTIFICATE			VETERINARIAN'S DAY TELEPHONE

CONDITIONS FOR IMPORTATION OF CERVIDAE INTO CALIFORNIA

1. Bovine tuberculosis (bTB) testing. The herd of origin must have undergone official testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older, shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. Cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation.)
2. Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are not known to be infected with brucellosis and have not been in contact with animals of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.
3. A Certificate of Veterinary Inspection with official test(s) and result(s) shall be submitted with this Cervidae Importation Application.
4. The California Department of Fish and Wildlife (CDFW) shall reserve the right to require additional testing prior to importation when there is reason to believe other diseases, parasites, or health risks are present. The CDFW shall provide written notification if such testing is required.
5. The approved and signed copy of this application shall act as the importation permit and must accompany any cervid(s) imported into California.

I certify that all information on this application is true and correct. I further certify that I will abide by the conditions set forth above and in Cal. Code Regs. Title 14, Section 681. With accordance to [California Civil Code §1633.5\(b\)](#), I acknowledge that by providing my electronic signature for this form, I agree that my electronic signature is legally binding equivalent to a handwriting signature. I hereby confirm that my electronic signature represents my execution or authentication of this form, and my intent to be bound by it.

SIGNATURE X	DATE
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FOR DEPARTMENT OF FISH AND WILDLIFE USE ONLY

STATUS OF APPLICATION (CHECK ONE) ☐ APPROVED ☐ DENIED* ☐ HOLD*

*REASON (only applicable if denied or on hold)

REVIEWED BY: (Wildlife Health Lab)	DATE
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INSTRUCTIONS FOR COMPLETING THE CERVIDAE IMPORTATION APPLICATION

This form is to apply for approval to import Cervidae into California. Approval pursuant to this application does not obviate the need to obtain other applicable permits and approvals to legally possess Cervidae. Accurately complete all aspects of the application form. Incomplete applications will be returned and may delay the review and processing of your importation application. Pre-application consultation is highly encouraged, as processing applications can take two to four weeks, but is not required. Requests for consultation must be submitted in writing to WHLab@wildlife.ca.gov. For more information on Cervidae importation, please contact the California Department of Fish and Wildlife's, Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Detailed information on all other Permits and Licensing can be found at <https://wildlife.ca.gov/Licensing/Directory>.

1. Applicant (Consignee):
 - a. Complete all applicable fields in this section.
 - b. Include the mailing address of the applicant or business and the physical address of the permitted facility where the imported animal(s) will be permanently housed.
 - c. At a minimum, an appropriate phone number must be included, an email address is encouraged and will facilitate the use of digital documents to speed up the application process.
 - d. Applicants must have an appropriate and current possession permit, either restricted species (Title 14, section 671) or fallow deer farming (Title 14, section 676), prior to completing this application for Cervidae importation.
 - e. Provide details of the animal(s) to be imported. At a minimum include species, age, sex, and number of each to be imported. Appropriate individually identifiable markings/animal I.D. and testing results should be included on the Certificate of Veterinary Inspection.
2. Current Owner of the Herd (Consignor):
 - a. Complete all applicable fields in this section.
 - b. Include the mailing address of the Consignor (individual or business) and the physical address where the animal(s) to be imported are currently housed.
 - c. An appropriate phone number for the Consignor must be included.
 - d. The name and phone number of the USDA-Accredited veterinarian performing the health inspections.
3. Sign and date the application.
4. Provide a copy of the official test results along with the Certificate of Veterinary Inspection.
5. Email copies of this application and official test results to the California Department of Fish and Wildlife's Wildlife Health Lab at WHLab@wildlife.ca.gov. Alternatively, applications can be mailed to ATTN: Cervid Importation Application, Wildlife Health Lab at 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670.
6. A signed copy will be returned to you by the Department. The signed, approved application serves as the importation permit and must accompany the animal(s) to be imported.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sects 257.5, 475, 676, 712, Add Sects 681 & 714, Ttl.14, CCR, Re: Mitigating risks for cervid importation			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|---|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

No new private sector compliance costs are necessarily incurred.*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***Fish and Game Commission**2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: **~7-11**Describe the types of businesses (Include nonprofits): **See addendum**Enter the number or percentage of total businesses impacted that are small businesses: **100%**4. Enter the number of businesses that will be created: **0** eliminated: **0**Explain: **Regulation will not increase demand for goods or services that could spur the creation of new businesses.**5. Indicate the geographic extent of impacts: ☒ Statewide☐ Local or regional (List areas): _____6. Enter the number of jobs created: **0** and eliminated: **0**Describe the types of jobs or occupations impacted: **See addendum**

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: No changes in compliance costs are imposed by the proposed regulation

2. If multiple industries are impacted, enter the share of total costs for each industry: 80% captive deer farms, 20% zoos

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ 0

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☒ NO

Explain the need for State regulation given the existence or absence of Federal regulations: Inhibit possible spread of disease that is being addressed at the state level because there is no federal regulation.

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ N/A

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: See addendum

2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?

Explain: The Commission is mandated to manage natural resources within the state.

3. What are the total statewide benefits from this regulation over its lifetime? \$ See addendum

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: The Commission does not anticipate that the proposed regulation would induce any impacts on the expansion of businesses currently doing business within the state.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: See addendum

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ prevent CWD Cost: \$ 0Alternative 1: Benefit: \$ < Regulation Cost: \$ > RegulationAlternative 2: Benefit: \$ < Regulation Cost: \$ > Regulation

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

See addendum4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NOExplain: N/A to mitigation measures and clarification of existing regulations.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million?** ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain [See addendum](#)**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD. 399 Addendum

Amend Sections 257.5, 475, 676 and 712, and Add Sections 681 and 714

Title 14, California Code of Regulations

Re: Mitigating Risks for Cervid Importation and Movement

ECONOMIC IMPACT STATEMENT

Background

Diseases can have significant long-term effects on native wildlife populations, especially novel diseases. Chronic wasting disease (CWD) caused by a mis-folded protein (called a prion) is the most significant disease affecting cervids (deer, elk, moose, caribou) in North America. The California Department of Fish and Wildlife (Department) has been testing for CWD since 1999 and, to date, it has never been detected in California's deer and elk herds.

Detection of CWD in California's deer or elk would necessitate substantially increased costs in how the Department manages these species into the indeterminate future. The most cost-effective management practice for CWD is prevention. Infectious CWD prions can be found in most tissues, glandular secretions, saliva, blood, feces, and urine. This regulatory action is proposed to target known risk factors, the movement of infectious materials, to mitigate the possibility of importing CWD into the state of California.

Actions that lessen the possibility of the importation of CWD and other infectious diseases are anticipated to directly benefit the state's native deer and elk populations while also providing indirect benefits to the hunting community, fallow deer farming, and outdoor recreation businesses by helping to ensure healthy cervid populations.

Additionally, the proposed prevention measures should save Department management costs in the long-run and allow current budgets to continue to further conservation programs to preserve deer, elk, and other California native species for their ecosystem values and as a resource for consumption and enjoyment by state and non-state residents.

Proposed Regulations

Amendments to Sections 257.5, 475, 676 and 712 and the addition of Sections 681 and 714 are to clarify and enhance possession, importation, and movement regulations for live cervids and infectious cervid body parts or products that include:

1. live cervids, particularly those in the captive cervid industry¹;
2. biological products from captive/live cervids that could contain infectious materials such as urine-based scent lures; and

¹ Captive farmed cervids have been found to be twenty times more likely to be CWD-positive than wild cervids. Chiavacci, S. 2022. The economic costs of chronic wasting disease in the United States. *PLoS ONE* 17(12):e0278366. <https://doi.org/10.1371/journal.pone.0278366>

3. cervid body parts from out-of-state harvests that are likely to contain infectious materials such as: the brain, spinal cord, gastro-intestinal tract, and lymphatics.

Proposed Amendments:

Section 257.5 prohibits taking resident game birds and mammals by the aid of bait.

- Proposed amendment to add cervid-derived biofluid-based lures to the list of prohibited baits for the take of game birds and mammals.

Section 475 defines methods of take that are allowed for nongame birds and nongame mammals, this section also prohibits use of bait.

- Proposed amendment to add cervid-derived biofluid-based lures to the list of prohibited baits for the take of nongame birds and nongame mammals.

Section 676 outlines requirements for possession, use, movement, and importation of live fallow deer, a cervid, including permitting and disease testing requirements. The importation permit incorporated in this section was last updated in 1997 and only covers the species *Dama dama* (fallow deer).

- Proposed amendment to remove the current Fallow Deer Farming Importation Application, LRB 1676A (3/97) from regulation, it will be superseded by a new importation permit for all members of the family Cervidae including fallow deer.

Section 712 regulates what parts of hunter harvested cervid carcasses may be imported and possessed but seems to define cervid as deer and elk only. This section also permits the importation of clean skull plates but does not define skull plate.

- Proposed amendment to clearly state that the regulation applies to all species in the family Cervidae, not just deer and elk. Define what a skull plate is to clarify what parts may be imported.

Proposed Additions:

Add **Section 714** that defines CWD sensitive cervid biofluids and prohibits the possession of biofluids, or products containing biofluids, derived from cervids.

Add **Section 681** to require a Cervid Importation Permit to import any animals in the family Cervidae. This section will provide details on requirements for permit application, disease testing, identifying markers for imported cervids, as well as clear denial authority based on disease risk.

Select answers (with more detail) from the STD 399:

Section A. Estimated Private Sector Cost Impacts

A. 3.

- **Total number of businesses impacted:** The combined total of restricted species (specifically Cervidae species) permit holders who may import any number of Cervidae per year is about 7-11.
- **Types of businesses:** less than ten (<10) Fallow deer farms and less than three (<3) petting zoos or seasonal fairs could be affected according to records from 2017-2021.

Additional background information regarding estimates in Section A. 3.:

Businesses: Restricted species permit and fallow deer farming permit holders will be affected by the replacement of the current Fallow Deer Farming Importation application with a new importation permit for all members of the family Cervidae including Fallow deer.

The businesses affected by cervid importation permit requirements would be 1) captive deer farms and zoos that hold restricted species permits for cervids; 2) an unknown number of similar businesses that may travel through the state, (i.e. the new import permits would be required even if just traveling through the state). The businesses affected by the cervid biofluid ban would be 3) retailers that seek to sell biofluid-based scent lures, which were not found to be widely available (as they are derived from white-tailed deer, that are not found in the state), while the sale of artificial scent lures would not be affected by these regulations, and 4) breeder permit holders looking to import semen for artificial insemination. The breeder permit holders are a subset of the aforementioned captive deer farms.

Regarding the import prohibition of cervid biofluid-based scent lures, California is a low-volume state for cervid scent lures overall, so small businesses located within the state do not rely on cervid biofluid-based scent lures sales, and many do not stock them at all.

Individuals: Individual hunters interested in transporting cervid carcass parts into California will not incur changes in compliance or costs. The current regulations are not substantively changed; proposed amendments are only to specify more clearly what Cervidae materials can be brought into California.

Additionally, the prohibition on the import, possession, and use of cervid biofluid-based scent lures will not affect hunters that hunt deer within the state. Discussions with representatives of California's hunting conservation organizations suggested that biofluid-based scent lures are not widely used, if at all, to hunt deer in California. Cervid biofluid-based scent lures are almost exclusively derived from white-tailed deer, and California has no white-tailed deer populations; deer that are native to the state have not been shown to respond to white-tailed deer biofluid-based scents. Synthetic alternatives are available and can be used by hunters and photographers that choose to without restriction.

A. 6. Number of jobs created and eliminated. 0

The Commission does not anticipate that the proposed regulation would induce any impact on the creation or elimination of jobs because the proposed regulatory action is not anticipated to stimulate or diminish demand for services related to chronic wasting disease mitigation measures.

Section C. Estimated Benefits

C. 1. Briefly summarize the benefits of the regulation.

Actions that lessen the possibility of the importation of CWD are anticipated to directly benefit the state's native deer and elk populations while also providing indirect benefits to the hunting community, fallow deer farming, and outdoor recreation businesses by helping to ensure healthy cervid populations. Additionally, the proposed CWD prevention measures should save Department management costs in the long-run and allow current budgets to continue to further conservation programs to preserve deer, elk, and other California native species for their ecosystem values and as a resource for consumption and enjoyment by state and non-state residents.

C. 3. What are the total statewide benefits from this regulation over its lifetime?

The total statewide benefits derived from measures to avoid CWD and the substantial related costs are the preservation of healthy Cervidae populations, hunting opportunities for individuals, and the positive economic impacts to hunting communities and businesses throughout the state.

Section D. Alternatives to the Regulation

D. 1. Both alternatives were considered and rejected because neither would meet project objectives of targeting known risks of CWD importation into the state.

Alternative 1: A. Live cervid import permit – outright ban on the importation of any cervid. B. Cervid-derived biofluids – allow for the use and possession of products certified through Responsible Hunting Scent Association (RHSA). While this may decrease the risk, it would not eliminate the risk of using biofluid-based lures or products and the consequences of CWD in California are immense. C. Clarifying hunter import regulations – none. Rejected as Alt 1 import ban is too restrictive and bio-based fluids use is too vague and permissive.

Alternative 2: No Change Alternative rejected because there would be little to no regulatory authority to deny the import of CWD-susceptible, at risk, and potentially infectious live cervids. Cervid-derived biofluids – would continue to be used and possessed increasing the risk of infectious prions being brought into California and placed on the landscape increasing the risk of contaminating California's deer and elk habitat with infectious prions allowing susceptible deer or elk to be exposed and infected by CWD. Without clarification hunter import regulations would remain vague as to which species the regulation applies to and what parts can be imported.

D. 2. Summarize the total statewide costs and benefits from this regulation and each alternative considered: (see Costs and Benefits sections below)

Table 1. Regulation and Alternatives Total Statewide Benefits and Costs

Regulation or Alternative	Benefit	Regulation Cost
Regulation:	ecological, social, and economic benefits of healthy Cervidae populations	no new necessary compliance costs
Alternative 1:	more risk, thus less benefits than regulation benefits	greater costs to businesses, and potentially to the Department and reduced hunting opportunity, thus greater costs than the regulation costs
Alternative 2: No Change	no mitigation to reduce risk, thus less benefits than regulation benefits	no mitigation to reduce risk, thus higher potential costs than regulation costs

D. 3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: The total statewide costs and benefits are described narratively rather than assigned dollar values because the costs are either unchanged (for the regulation) or small and would affect a very small sector of the economy (for Alternative 1); moreover, the benefits are more aptly described than monetized.

Costs: States that have detected CWD on average spend eight times more on CWD management efforts than states that have not detected CWD. Human dimensions research suggests that hunter participation may decrease in areas where CWD has been detected, particularly as CWD prevalence rates increase. Increasing costs to manage this disease and decreasing hunting license sales would compound significantly affecting the Department's resources and ability to manage CWD, deer, elk, and all other species in California. Additional risks associated with CWD are either difficult to quantify or incompletely understood. Infectious prions can bind to or be taken up by plants which could potentially act as a mechanism to spread the disease. Foremost of these incompletely understood risks of CWD are those it may pose to people or livestock. CWD is in the same class of diseases as bovine spongiform encephalopathy (Mad Cow Disease), a prion disease that affects cows and linked to variant Creutzfeldt-Jakob disease (vCJD), a fatal neurodegenerative disease reported in 231 people worldwide as of 2018. While poorly understood, the risk to people is not zero and public health officials remain cautious recommending we keep the agents of all known prion diseases from entering the food chain, including CWD, despite no direct evidence that CWD can affect people.

Benefits: The total statewide benefits derived from measures to avoid CWD and the substantial related costs are the preservation of healthy Cervidae populations, hunting opportunities for individuals, and the positive economic impacts to hunting communities and

businesses throughout the state. The total benefit of the proposed regulation could also be characterized as the avoidance of a multitude of costs if CWD was to enter the state.² The probable costs if CWD was to spread throughout California far exceed the costs of the proposed CWD mitigation measures. The costs of CWD are likely to range from compounding Department management costs, loss of hunting activity, resulting in Department fiscal and regional economic impacts, as well as the unknown health risks to other species, including humans. The benefit of the proposed regulations can also be characterized as the converse of the potentially substantial widespread costs of no action. Fiscal and economic costs similar to what other states (with CWD) experienced could occur if no mitigation measures are enacted.

- Eight-fold increase in Department management costs
- 25%-40% loss of hunters (Deer are the most popular game species.)
- 25%-40% license and tag revenue loss
- Regional economic impact losses with 25%-40% fewer hunting trips

FISCAL IMPACT STATEMENT

Section A. Fiscal Effect on Local Government

A. 5. No Fiscal impact exists. This regulation does not affect any local entity or program.

Section B. Fiscal Impact on State Government

B. 4. Other. Explain: The Department Wildlife Health Laboratory (WHL) effort to review and approve cervid importation permits is expected to be unchanged. Department law enforcement costs are expected to be unchanged, as the routine level of field enforcement is expected to be sufficient. There may be a decrease in the number of citations for improper importation of parts from hunter harvested animals as the regulation change will clarify what can and cannot be imported from cervids harvested out-of-state. The proposed regulatory measures to mitigate the risk of CWD importation into the state are projected to save the Department costs in the long run. Other states' experience has shown that state wildlife department management costs could increase by eight-fold, should CWD infections spread within the state.

Section C. Fiscal Effect on Federal Funding of State Programs

C. 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

² Chiavacci, S. 2022. The economic costs of chronic wasting disease in the United States. *PLoS ONE* 17(12):e0278366.

Mitigating risks for cervid importation and movement

Presentation to the California Fish and Game Commission, June 14-15, 2023

Brandon Munk, MS, DVM

CA Dept. of Fish and Wildlife, Wildlife Health Laboratory

**NO TIME
TOWASTE**
KEEP CWD AWAY



An ounce of prevention...

- Recommended regulatory updates for:
 - Live cervid importation and disease testing.
 - Importation, possession, and use of cervid-derived biological products.
 - Clarifying language to hunter import regulations and include moose, caribou, and other susceptible species.
- Rejected alternatives.
- Justification, Investment in Disease Prevention.

Live Cervid Importation and disease testing

- New section T14, 681 defining cervid and detailing requirements for live cervid importation.
- Amend T14, 676(e)(2) to refer to new section 681 for live cervid importation requirements.
- Amend T14, 676(e) to update brucellosis and bovine tuberculosis testing requirements for cervid importations.

Importation, possession, and use of cervid-derived biological products.

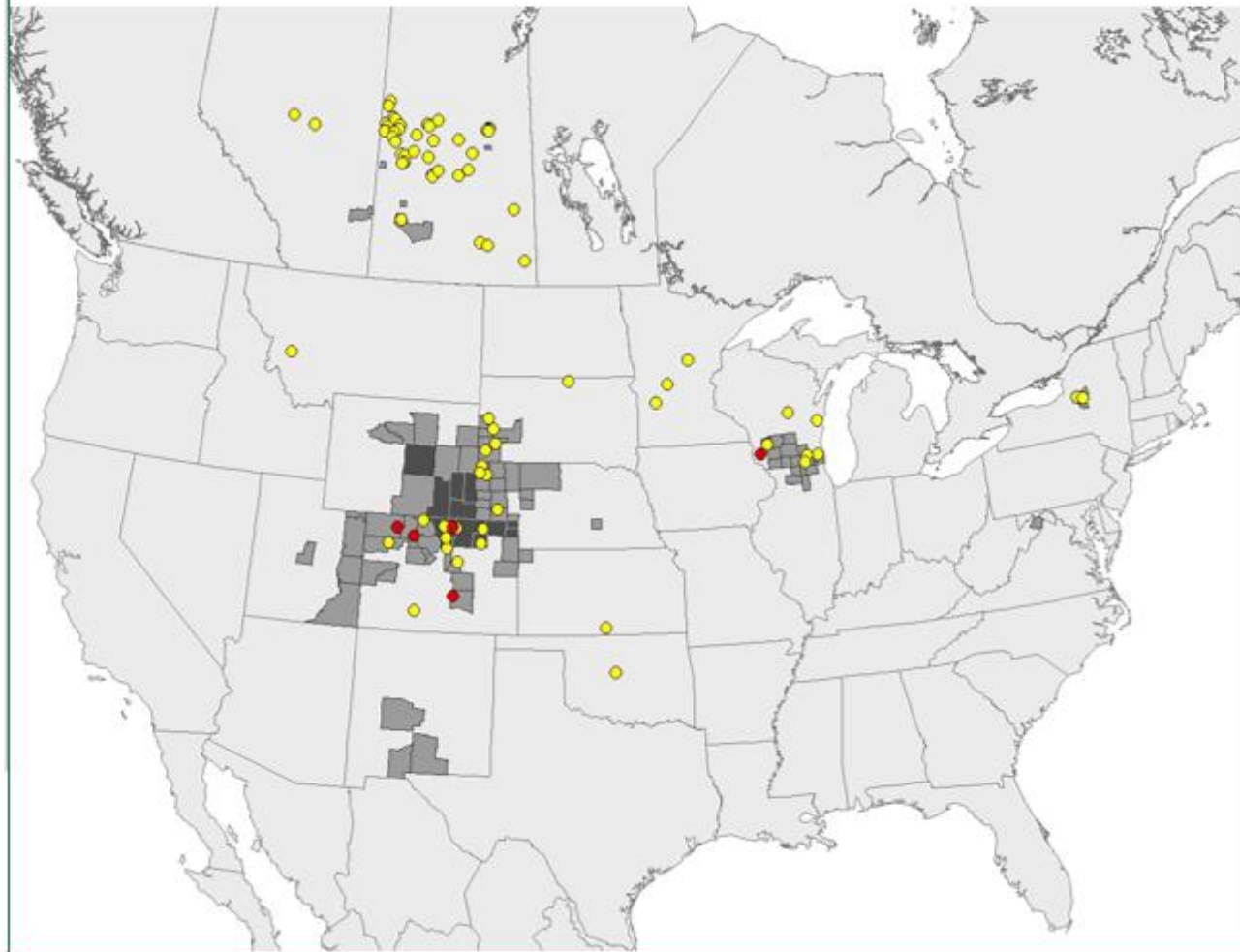
- New section T14, 714 to define and regulate importation, possession, and use of CWD-sensitive cervid biofluids.
- Amend T14, 257.5 to include cervid-derived biological fluid to the list of substances used to define a “baited area”
- Add new subsections to T14, 257.5 and 475 prohibiting use of materials containing CWD-sensitive cervid biofluids to take game or non-game birds or mammals.

Clarifying language to hunter import regulations, T14, 712

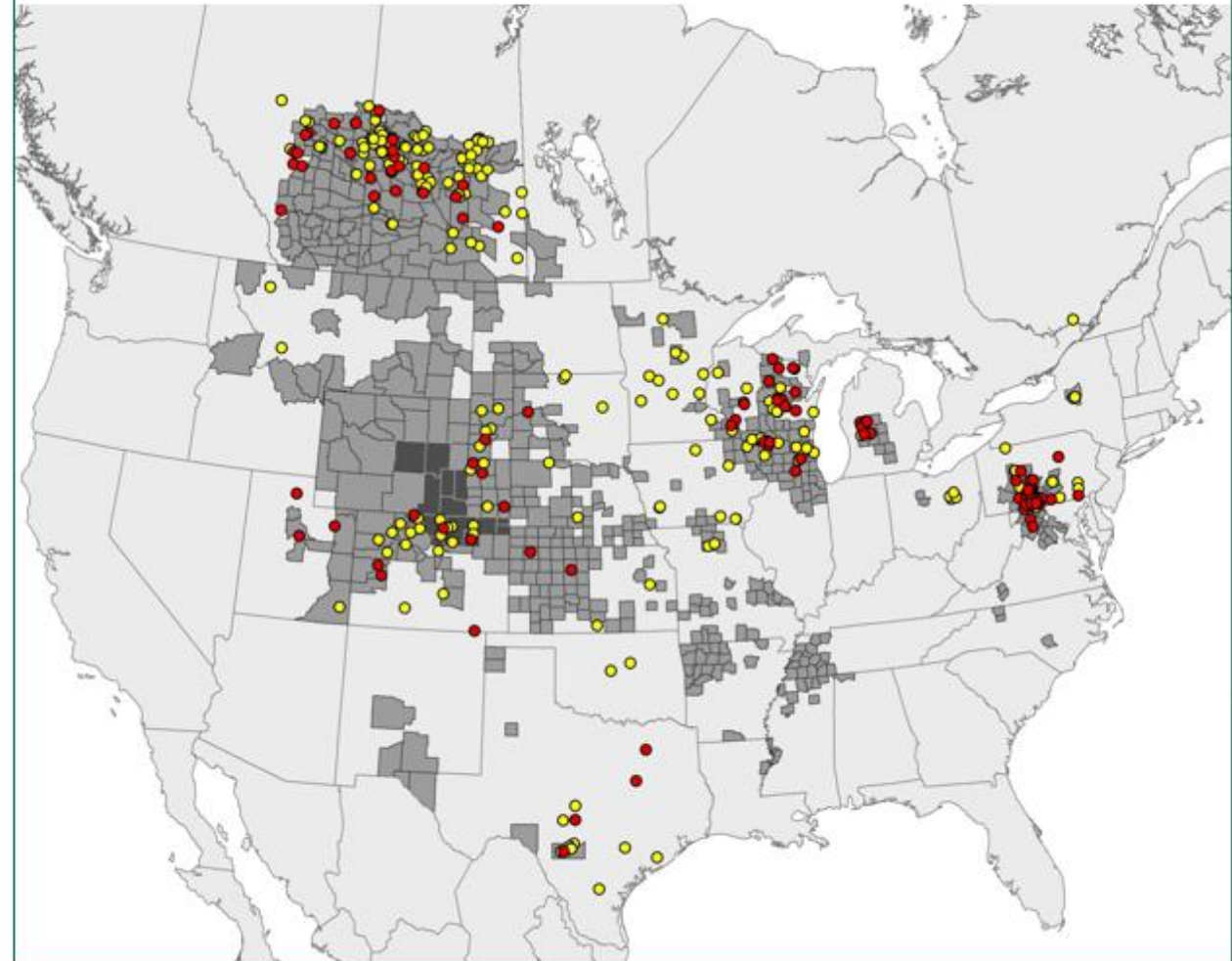
- Add language that explicitly states this regulation is inclusive of all members of the family Cervidae.
- Add language to subsection 712(c) that clearly defines “skull plate.”

Chronic Wasting Disease (CWD)

November 2006

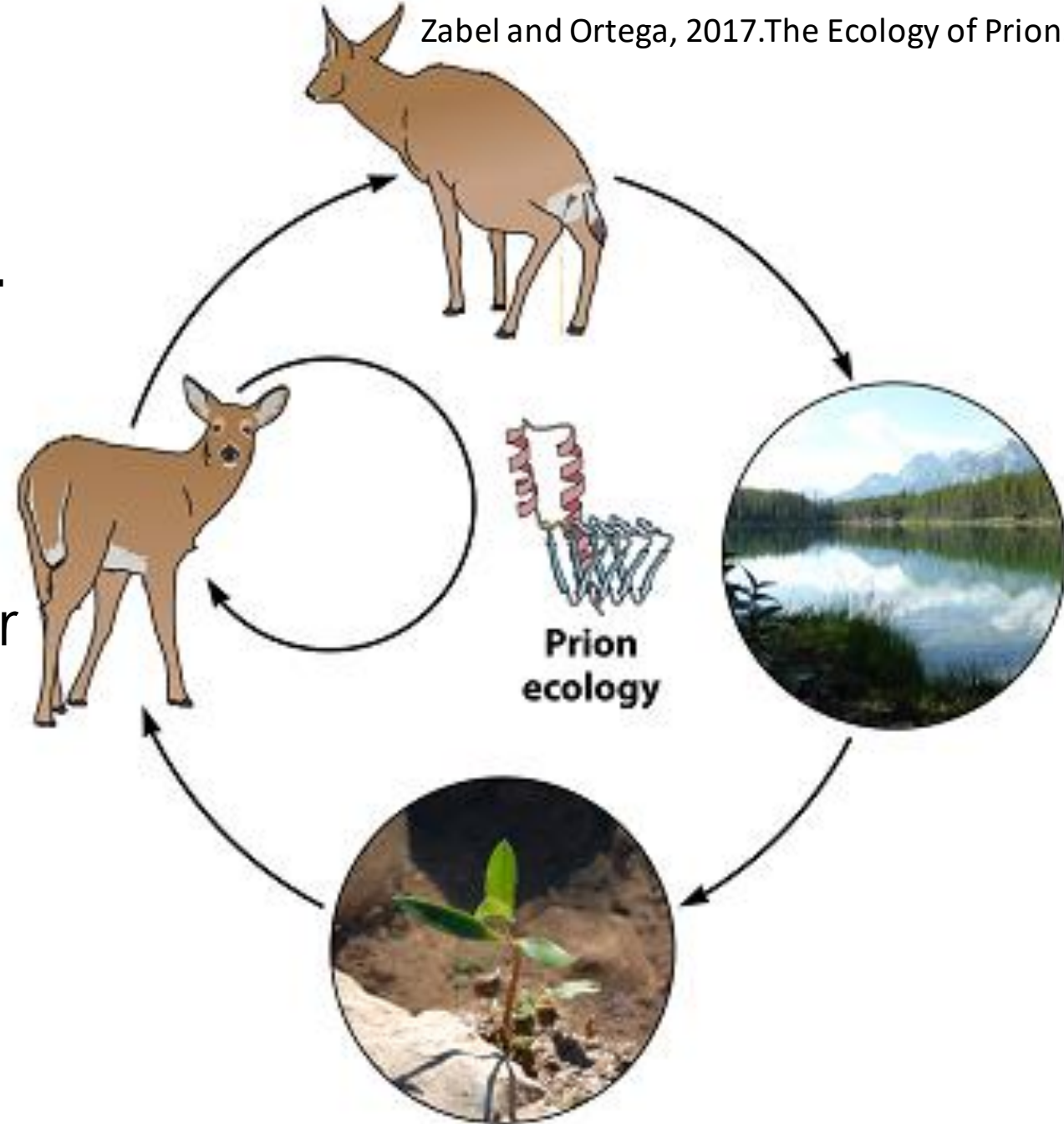


March 2023



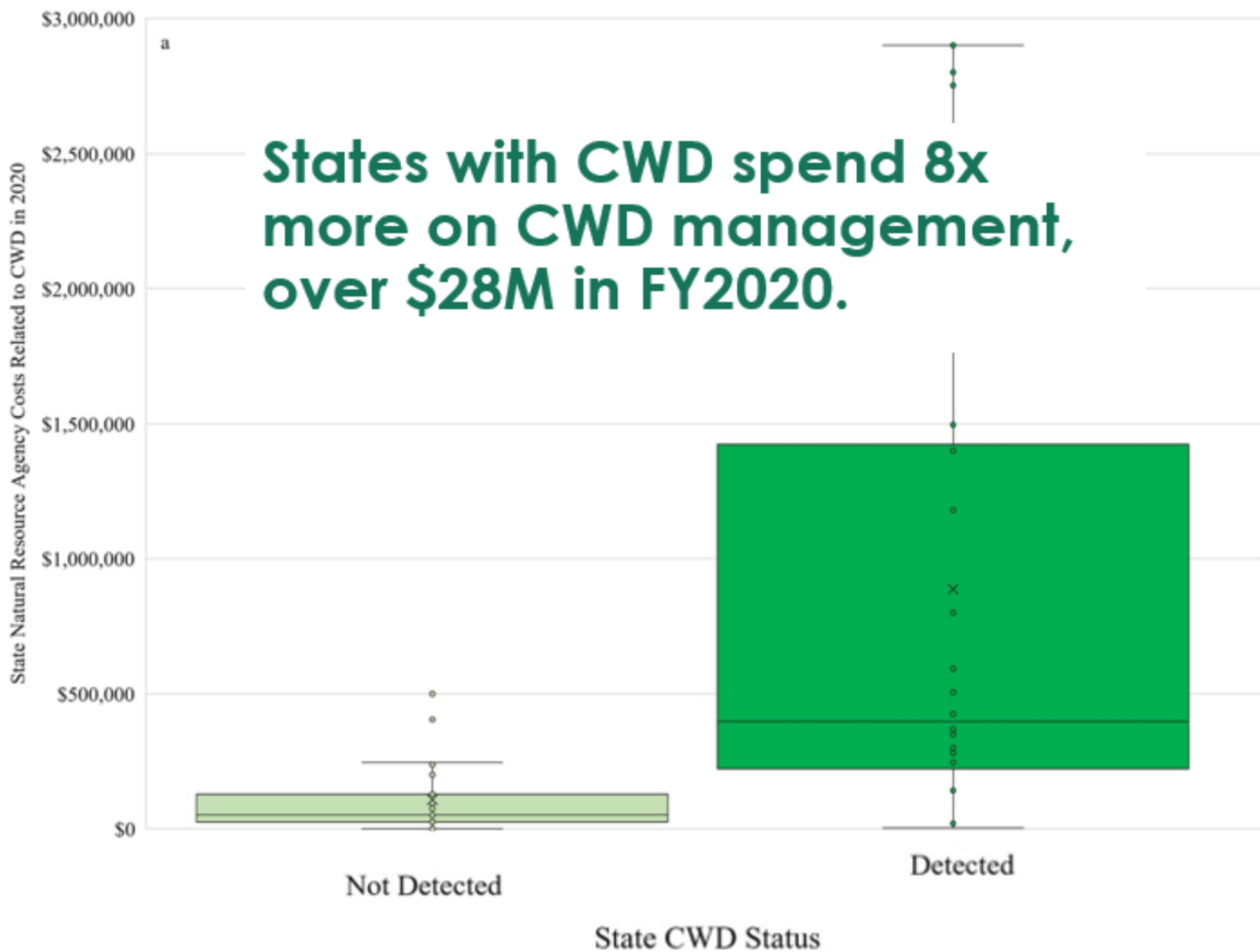
Management Challenges

- Extended Incubation (>15 mos)
- Pre-clinical shedding
- Shed in urine, feces, and saliva
- Infectious in the environment for years
- Environ. Seeding
- No vaccine, despite attempts
- Multiple strains
- Population Level Impacts



Economic Costs of CWD

States with CWD spend 8x more on CWD management, over \$28M in FY2020.



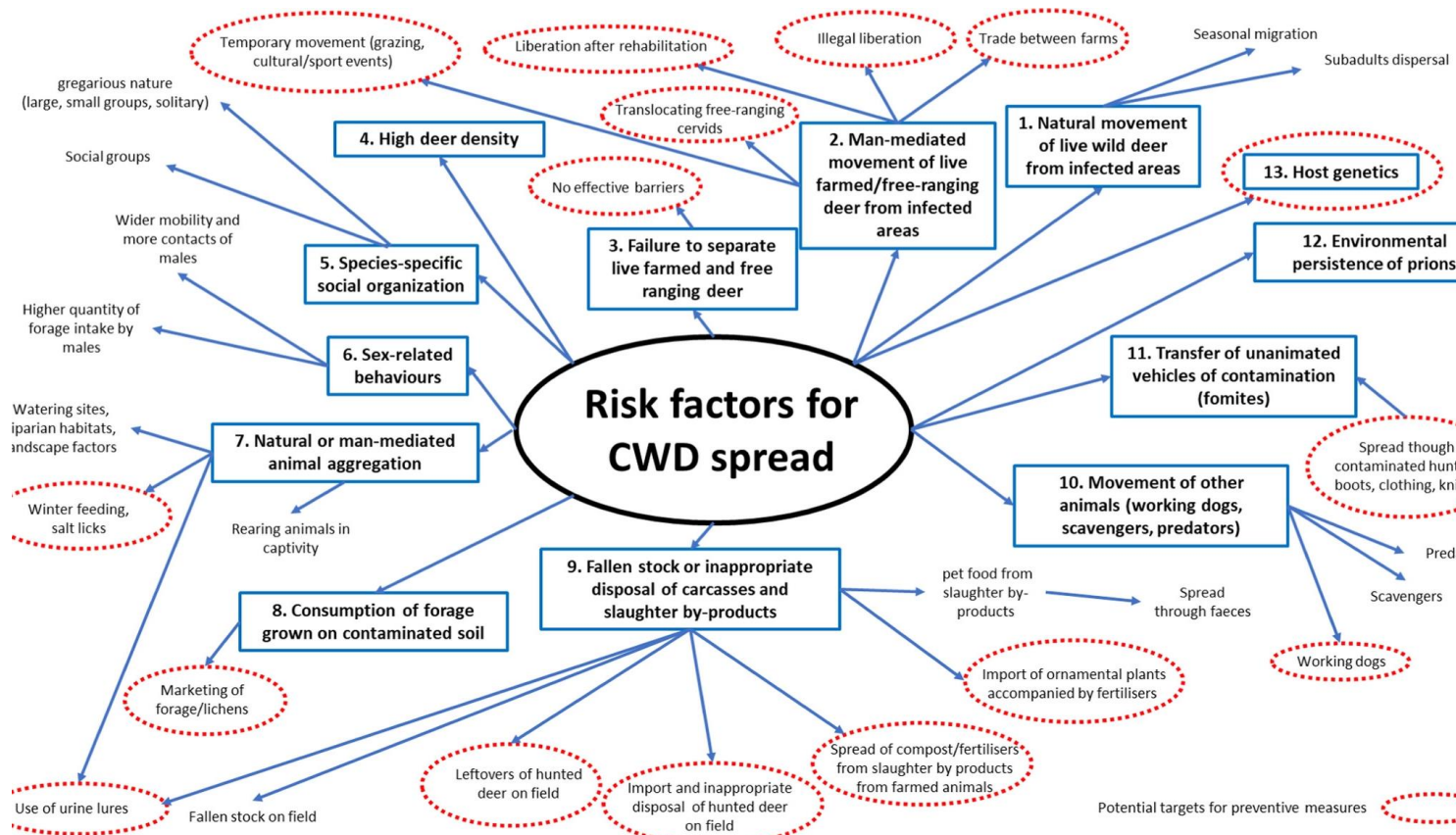
Chiavacci 2022. The economic costs of chronic wasting disease in the United States. *PLoS ONE*, 17(12): e0278366.

CWD first detected in WI in 2002:

“hunter losses likely amounted to between \$53 million and \$79 million in 2002 and \$45 million to \$72 million in 2003”

Bishop 2004. The economic impacts of chronic wasting disease (CWD) in Wisconsin. *Human Dimensions of Wildlife*, 9:181-192.

Preventing CWD Risk Factors



- Movement of Live cervids
- Movement of Hunter-harvested Cervids/Parts
- Biological products:
 - Biofluid-based scent lures (urine, glands)
 - Reproductive tissues and gametes
- Preventing unnatural concentrations of cervids

Gillin and Mawdsley (eds) 2018. AFWA Technical Report on Best Management Practices for Surveillance, Management and Control of Chronic Wasting Disease.

QUESTIONS

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<https://wildlife.ca.gov/CWD>

For More Information on CWD

Where has CWD been Detected:

<https://cwd-info.org/map-chronic-wasting-disease-in-north-america/>



CWD Related Hunting Regs in North America:

<https://cwd-info.org/cwd-hunting-regulations-map>



Carcass Transport Regulations, U.S. and Canada:

<https://cwd-info.org/state-and-province-carcass-import-regulations/>



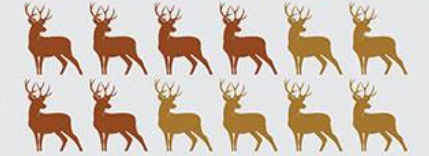
Chronic Wasting Disease (CWD): What you need to know

WHAT IS CWD?

CWD is a **fatal neurological disease** of cervids (i.e., deer, elk, moose and reindeer).



HOW DOES IT SPREAD?



CWD spreads to cervids through contact with infected animals, tissues and environments.



HOW CAN WE HELP PREVENT THE SPREAD OF CWD?

Testing deer samples helps us know if CWD is present and allows us to better respond and manage the disease.

WHICH U.S. STATES HAVE DETECTED CWD?



States with detected cases of CWD



Hunters can bring their harvested deer or elk to a California Department of Fish and Wildlife (CDFW) sampling station or regional office to be sampled for CWD. Alternatively, the head can be brought to a meat processor or taxidermist participating in CDFW's CWD Sampling Program. CDFW will collect paired lymph nodes, dime to quarter-sized tissues, located behind the jaw along the spine.



OUT-OF-STATE HUNTING & HARVEST IMPORT



The California Code of Regulations, Title 14, Section 712 governs the importation of hunter-harvested deer and elk (cervid) into California. Only some parts of a harvested deer or elk can be imported, and no portions of the brain or spinal cord may be imported. Visit wildlife.ca.gov/CWD to learn more.

For more information on keeping California's deer and elk herds safe and free from CWD, please visit CDFW's CWD web page: wildlife.ca.gov/CWD.

NO TIME TO WASTE
KEEP CWD AWAY

